

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

WWP, INC.,	)	
	)	
Plaintiff,	)	8:07CV370
	)	
v.	)	
	)	
WOUNDED WARRIORS, INC.,	)	ORDER
	)	
Defendant.	)	
_____	)	

This matter is before the Court on defendant's motion to dismiss and to strike (Filing No. 14). In that motion, defendant seeks an order from the Court dismissing all or portions of the plaintiff's third claim for relief, alleging that it fails to state a claim upon which the relief requested may be granted.

In addition, and in the alternative, defendant moves the Court to strike a portion of the third claim for relief on the grounds that it is immaterial. The Court has reviewed the complaint, the defendant's motion to dismiss and to strike, and the respective briefs of the parties in support of and in opposition to said motions.

Upon reading the brief of defendant, it appears that essentially the defendant objects to that portion of the third claim in which plaintiff seeks recovery of damages, interest, and attorney's fees. The third claim for relief is premised on the Nebraska Deceptive Trade Practices Act, and Section 87-303

provides only for injunctive relief. The decisions of the Nebraska Supreme Court make it clear that this act does not provide for the recovery of damages but provides only for injunctive relief.

The plaintiff concurs that its claim for money damage relief is not appropriate and should be stricken from the third count. Accordingly,

IT IS ORDERED:

1) Defendant's motion is granted as to the portion of the third claim which seeks the recovery of money damages, together with both prejudgment and post-judgment interest on damages awarded.

2) In all other respects, the motion to dismiss is denied.

DATED this 31st day of October, 2007.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court